

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1727.01</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Steve Starbuck</b>
<b>DATE OF COMPLAINT:</b>	<b>April 4, 2001</b>
<b>DATE OF REPORT:</b>	<b>May 3, 2001</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>yes/no change to report</b>
<b>DATE OF CLOSURE:</b>	<b>June 20, 2001</b>

**COMPLAINT ISSUES:**

Whether the New Albany-Floyd County Consolidated Schools violated:

511 IAC 7-27-4(c) with regard to the school's alleged failure to utilize the case conference committee (CCC) to develop annual goals and short-term objectives for the student's individualized education program (IEP) in October 2000 and February 2001.

511 IAC 7-25-7 with regard to the school's alleged failure to conduct an additional evaluation, specifically, a central auditory processing test, at the parent's request.

511 IAC 7-21-6(d) with regard to the school's alleged failure to provide the student with assistive technology services, specifically, an FM trainer.

511 IAC 7-27-7(a) with regard to the school's alleged failure to ensure the student's IEP was implemented as written, specifically:

1. failing to ensure the student's assignments are written in the student's planner;
2. failing to provide progress reports at the identified intervals; and
3. failing to provide identified accommodations and adaptations.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record:

1. regularly monitored the implementation of the student's IEP;
2. provided progress reports to the student's parent; and
3. ensured adaptations and accommodations were implemented as required by the IEP.

511 IAC 7-27-4(c)(3) with regard to the school's alleged failure to convene a CCC meeting at the parent's request.

511 IAC 7-27-4(c) and 511 IAC 7-27-6(a)(2) with regard to the school's alleged failure to ensure that the CCC developed annual goals related to meeting the student's individual needs.

511 IAC 7-18-2(a) and 511 IAC 7-17-7 with regard to the school's alleged failure to provide a free appropriate public education at no cost to the parent (CAPD evaluation and FM trainer purchase have been at parent's expense).

During the course of the investigation, an additional issue was identified, which is:

511 IAC 7-27-6(a)(7)(B) with regard to the school's alleged failure to include on the IEP a statement of how the student's parents will be regularly informed, at least as often as parents are informed of

their nondisabled student's progress, of the student's progress made toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the twelve month period.

#### **FINDINGS OF FACT:**

1. The student is twelve years old, attends the sixth grade, and has been determined eligible for special education due to a learning disability and a communication disorder.
2. IEPs were developed for the student on October 6, 2000, and February 14, 2001. Both IEPs reflect that the CCC took into consideration the student's needs, strengths, and the parent's concern for enhancing her child's education. The October 6<sup>th</sup> IEP reflects that goals and objectives were written for the student in the following areas: auditory processing, written language skills, and organization/cues. The February 14<sup>th</sup> IEP reflects that goals and objectives were written for the student in the areas of: math, language arts, and auditory processing skills. The parent attended both CCC meetings and signed the IEPs indicating approval with the recommendations made and giving consent for the IEPs to be implemented.
3. The parent states she sent a note to the school in September, 2000, requesting that the student be evaluated for a learning disability and for a central auditory processing dysfunction. The parent states that she does not have a copy of this note. The director reports there is no record that the parent requested a central auditory processing evaluation. The Parent Permission for Evaluation form was signed by the parent on September 21, 2000, but does not indicate what type of evaluation the parent is requesting. The student's teacher completed the form, Request for Individual Evaluation, on September 22, 2000. The form indicates the student is performing somewhat below grade level in spelling, language, and math. The area of the student's suspected disability is listed as academic. There is nothing on the four page form that indicates the student is in need of an evaluation for an auditory processing problem.
4. The parent states that she discussed with the director the issue of obtaining an FM trainer (personal listening device) for the student. According to the parent, the director indicated that other options could be tried before purchasing equipment, and that he would be willing to schedule a meeting to explore options for the student. The director states he had a telephone conversation with the student's parent on January 4, 2001, and was informed at that time that the student had been evaluated for a central auditory processing dysfunction. The director states he advised the parent that once the evaluation was provided to the school, the assistive technology team would review the report. The director reports that the school would not have recommended purchasing an FM trainer without review of the evaluation by the assistive technology team. The parent provided to the Division a copy of a letter dated January 9, 2001, she wrote to the student's teacher regarding the purchase of a listening device for the student. The letter only states that the parent will be ordering a listening system and does not reflect that the parent would like the school to pay for the FM trainer. In addition, the director provided a copy of speech therapy progress notes recorded by the student's speech therapist that indicates the school had planned to assist the parent with obtaining an auditory trainer through the PATINS program. The progress notes reflect that a request to PATINS for an auditory trainer had been completed, but was not sent based on the parent's letter dated January 9<sup>th</sup> that indicated the parent was in the process of ordering an FM trainer.
5. As an objective to achieve an organizational goal, the IEP dated October 6<sup>th</sup> indicates the student will use one folder and planner to keep track of work and assignments five out of five days. The IEP indicates that the student's general and special education teachers and the paraprofessional will be responsible for seeing that this goal is implemented. The IEP dated February 14<sup>th</sup> indicates a planner will be used for communication from the teacher on assignments and missed assignments. The accommodations page of both IEPs reflects that the student shall use an assignment

notebook. The parent alleges the school has never been consistent in making sure the assignment notebook is utilized and updated on a daily basis. The school provided copies of the student's daily planner from August 16, 2000, through April 13, 2001. There are numerous dates throughout the planner where there are no assignments listed and no notations made as to why there are no assignments listed. Since February 14<sup>th</sup>, the student's planner reflects more input from the student's teachers regarding assignments; however, the documentation is not consistently recorded on a daily basis and does not include assignment information for all subject areas.

6. The IEP dated October 6<sup>th</sup> has three pages entitled "Goals and Objectives." The IEP dated February 14<sup>th</sup> has six pages entitled "Goals and Objectives." Each page reflects that the parent will be informed of the student's progress every nine weeks. Each page also has a column entitled "progress" that lists terms of measurement and has a space for listing a date for when the progress was measured. The director reports this form is used to inform parents of a student's progress made toward annual goals. The parent was expecting copies of this document every nine weeks to advise her of the student's progress. The school provided the Division with copies of progress reports that list the student's classes, assignments, scores, and grades on a daily basis. It was indicated on the progress reports that these reports were sent to the parent every nine weeks. Although these progress reports are very comprehensive, they do not indicate the student's progress made toward the specific goals and objectives listed on the Goals and Objectives forms. The school did provide two pages of the Goals and Objectives form dated March 23, 2001, that reflect the student's progress made toward two of the six annual goals written for the student on February 14, 2001.
7. The parent states the student has not been provided with the following accommodations: a checklist to support his time management skills, peer tutoring, and extra written instructions for assignments. These three accommodations are listed in the student's IEPs dated October 6, 2000, and February 14, 2001. The school provided a lengthy and comprehensive list of accommodations provided to the student by his three classroom teachers. None of the three teachers indicated that they utilized a checklist with the student to support his time management skills. Only one teacher indicated that she provided the student with his assignments in writing, and the teacher of record acknowledges that peer tutoring has not been utilized for the student in any of his classes.
8. The parent states that in March 2001, she continually requested that a CCC meeting be convened to discuss the student's transition to middle school. The parent states that she requested the scheduling of a CCC meeting through notes sent to the student's teacher of record. The parent did not provide copies of these notes to the Division. The teacher of record states she received a letter from the parent around the end of February that indicated the parent would like a CCC meeting scheduled for the second week of April. The teacher of record provided to the Division a copy of the letter dated February 27, 2001. The letter indicates the parent would like a CCC meeting scheduled for one of the following dates: April 9, 10, 11, 12, or 13, 2001. A CCC meeting was convened on April 10, 2001, to discuss the student's transition to middle school and to develop an IEP for the 2001-2002 school year.
9. The October 6<sup>th</sup> IEP reflects that the CCC determined the student had needs in the areas of communication, language, and organization/cues. The IEP indicates that goals were developed for the student to improve auditory processing, written language skills, and organization and cues for focusing. The February 14<sup>th</sup> IEP reflects that the CCC determined the student had needs in the areas of math, language arts, and communication. The IEP indicates that goals were developed for the student to improve math calculation, reading and written language skills, and auditory processing skills. The parent attended both CCC meetings and signed the IEPs indicating approval with the recommendations made and giving consent for the IEPs to be implemented.
10. The school's evaluation of the student dated September 25, 2000, does not indicate that the student has auditory processing problems or that there is a need for additional testing. The parent obtained

and paid for an independent central auditory processing evaluation on January 4, 2001. On January 23, 2001, the parent purchased an FM trainer for the student. The parent did not provide any documentation to verify that she had requested the school to make payment for the evaluation or FM trainer. The director states the school has never been asked to conduct an additional evaluation or to pay for the FM trainer. According to the director, the student's speech therapist had planned to obtain a loaner FM trainer to use on a trial basis until the parent notified the school that she planned to purchase a personal FM trainer for the student. The IEP dated February 14, 2001, indicates the student had been recently tested by Easter Seals and was found to have a central auditory processing dysfunction. The IEP indicates the student is presently using an auditory trainer in the classroom. No reference is made in the Case Conference Summary/IEP to indicate that the parent requested the school to pay for the independent evaluation or the FM trainer.

11. The Goals and Objectives form utilized in the development of the IEPs dated October 6<sup>th</sup> and February 14<sup>th</sup> contains the statement that progress reports will be sent home, followed by lines with a space that can be checked to reflect that progress reports will be provided to the parent every 4 1/2 or 9 weeks. There is also a line with a space to check "Other" to indicate a different frequency for informing the parent. The director states a copy of the Goals and Objectives form is used to advise the parent of the student's progress made toward annual goals; however, this information is not clearly specified on the form. In addition, there are no other provisions to record information on the form should the parent want to be informed of the student's progress in different manner. Currently, the form reflects that the school has already determined how the parents will be informed of the student's progress made toward annual goals, instead of permitting the CCC to make this determination.

#### **CONCLUSIONS:**

1. Finding of Fact #2 reflects that the school utilized the CCC meeting to develop annual goals and objectives for the student's IEPs dated October 6, 2000, and February 14, 2001. Therefore, no violation of 511 IAC 7-27-4(c) is found.
2. Finding of Fact #3 indicates that the school did not receive a request from the student's parent for an auditory processing evaluation. Therefore, no violation of 511 IAC 7-25-7 is found.
3. Finding of Fact #4 reflects that the school had completed a written request to obtain an FM trainer, but did not submit the request due to the parent purchasing one for the student. Therefore, no violation of 511 IAC 7-21-6(d) is found.
4. Finding of Fact #5 indicates that the school failed to ensure the student's assignments are written in the student's planner. Therefore, a violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #6 reflects that the school failed to provide progress reports to the parent at the identified intervals. Therefore, a violation of 511 IAC 7-27-7(a) is found.
6. Finding of Fact #7 indicates that the school failed to provide identified accommodations and adaptations. Therefore, a violation of 511 IAC 7-27-7(a) is found.
7. Findings of Fact #5, #6, and #7 reflect that had the student's teacher of record regularly monitored the implementation of the student's IEP, the parent would have received the appropriate progress reports every nine weeks, and the student would have received all adaptations and accommodations identified in the IEP. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
8. Finding of Fact #8 indicates that the school convened a CCC meeting at the parent's request. Therefore, no violation of 511 IAC 7-27-4(c)(3) is found.

9. Finding of Fact #9 reflects that the school ensured that the CCC developed annual goals related to meeting the student's individual needs. Therefore, no violations of 511 IAC 7-27-4(c) and 511 IAC 7-27-6(a)(2) are found.
10. Finding of Fact #10 indicates that there is no documentation to support that the parent requested the school to provide payment for an auditory processing evaluation or an FM trainer. Therefore, no violations of 511 IAC 7-18-2(a) and 511 IAC 7-17-7 are found.
11. Finding of Fact #11 reflects that although the school included a statement in the IEP of how the parents will be informed of the student's progress made toward annual goals, the form utilized by the school does not provide provisions for documenting when the CCC determines the parents shall be informed of the student's progress in a different manner. Therefore, a violation of 511 IAC 7-27-6(a)(7)(B) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The New Albany-Floyd County Consolidated Schools shall:

1. Inservice all of the student's teachers, the student's teacher of record, and the building principal as to the requirements specified in 511 IAC 7-27-6(a)(7)(B), 511 IAC 7-27-7(a) and (b), and 511 IAC 7-17-72. As a measure for preventing similar violations in the future, provide each individual who attends the inservice training with a copy of the student's IEP, and review with them their individual responsibility for ensuring implementation of the IEP. Submit documentation to the Division that the inservice training has been completed no later than June 8, 2001. The documentation shall include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
2. Provide documentation to the Division no later than June 8, 2001, of how the school plans to include on the IEP a statement of how the student's parents will be regularly informed, at least as often as parents are informed of their nondisabled student's progress, of the student's progress made toward annual goals. If the school wishes to continue using the Goal and Objectives form to advise the parent of the student's progress, then a statement of such needs to be clearly indicated on the form. The form also needs to be revised to include provisions for recording the determination made by the CCC when a parent wishes to be informed of the student's progress in a different method or format.
3. Submit an assurance statement to the Division no later than June 8, 2001, ensuring that all IEPs developed for the student will be implemented as written. The assurance statement shall be signed and dated by the director.